

1866-006 Chancery Causes. Abraham R. Surgenner vs. John W. M. Ely &c  
Lee Co.

Loyd, Young, Arrey

CA-Debt  
T-Property



To the Honorable, The Judge of The Circuit  
Court of Lee County Virginia.

The bill of complaint of Abraham R.  
Surgeon of said County respectfully represents  
that at the March Term of the County Court of said  
County for the year 1860, One John W. M. Ely, who  
sued for the benefit of James I. Loyd and James  
McYoung, Administrators of the Estate of John  
Arey Deceased, obtained <sup>final</sup> judgment against your  
~~Orator~~ for the sum of ~~Eighty five~~ <sup>said</sup> Dollars, with  
legal interest thereon from the 2<sup>nd</sup> day of August  
1859 till payment, and the costs, amounting to  
\$6.51. The note on which <sup>said</sup> judgment was obtained  
was executed by your Orator, in consideration  
of an exchange of horses, between said Ely  
and your Orator. Your Orator afterwards sold  
the horse which he had gotten in the exchange  
with Ely, to said John Arey in his lifetime,  
for the sum of One hundred & eighty two  
Dollars and fifty cents, due about the 1<sup>st</sup> of  
last October, November, or December. Said note  
will be filed and will show the true time  
when it is due. After said Arey had executed  
said note to your Orator, he obtained <sup>by purchase</sup> from  
said Ely, the note executed by your Orator to  
said Ely, and expressly agreed, with your Orator,  
that the note held by your Orator against him  
was to be set off against the note he had  
purchased from Ely on your Orator.

Shortly afterwards the said Arey departed this life,  
without having complied on his part with the prom-  
ise above stated, and the note on which said judg-  
ment was obtained, went into the hands of said Loyd  
& Young, his personal Representatives who refused  
to settle the said note in the way agreed on by



said Aray, in his life time. But they brought May the C. Wealth's writ of Spa issue  
suit on said note and prosecuted it to judgment V. L.  
and are now harrasing your Orator with an ex-  
ecution on his property. Your Orator was preven-  
ted from making his defence at Common Law,  
by reason of indispensable absence from this befor me the undersigned Justice of the Peace  
State. He had a drove of horses on hand, and in for said County, and made oath that  
was compelled to accompany them to Market, the statements contained in the preceeding  
and did not get back in time to put in a defence bill are true, to the best of his knowledge  
to said suit. ~~and by reason of your Orator being~~ and belief. Given under my hand this  
~~without~~ The Estate of said John Aray Decd. 5<sup>th</sup> day of June 1860.  
is nearly entirely insolvent. And if your Orator  
should be forced to pay the debt to said Estate,  
he could make nothing on his debt out of said  
Estate if he sued on it, and consequently would  
lose his debt against said estate and pay the  
debt owed by him to the said estate.

Your Orator being without an adequate  
remedy at Common Law, and relievable  
in a Court of Equity only, his prayer there-  
fore is that the said John W. M. Ely, and James  
V. Soyd and James M. Young be made parties  
Defendant to this bill and be required to  
answer the several allegations thereof fully  
and completely on oath, that your Honor  
make an order enjoining them and all other  
persons from enforcing the said judgment  
until the further order of the Court in the  
premises, that on final hearing of the case  
the injunction be made perpetual. And  
~~that~~ a decree be rendered in favor of your  
Orator for the excess of the debt due to him from  
said Estate after deducting the amount of the debt  
due from your Orator to said Estate. And your  
Orator will ever pray &c

Virginia See County to wit,

This day Came Abraham R. Surgenor  
Clerk of the Court in and for said County, and made oath that  
the statements contained in the preceeding  
bill are true, to the best of his knowledge  
and belief. Given under my hand this  
5<sup>th</sup> day of June 1860.

W. C. Morgan Comr.



Abraham S. Surinmer

Bill Chy.

Lloyd V. Young Adm<sup>r</sup>

Upon Compt<sup>r</sup> executing  
& filing a release of errors  
in the suit at law, and  
upon the execution of  
bond with good security  
in a penalty double  
the amount of the judge-  
ment complained of,  
with conditions, as the  
law requires, an In-  
junction is granted to  
restrain the defts from  
further proceeding upon  
said judgement until  
the further order of Court.

Saml. V. Sullivan  
& June 1860

C. Cir. C. L. ex. co.

1860. A. B. Bill filed  
S. 12. Sept R. E. N. Conf  
Answer filed at  
Oct Term 1860 by leave  
of the Court & cause set  
for hearing. by Sept,  
1860 Octr Decree & cont.  
1863. May Contd.  
1866. April - Dismissed.

6 3.42  
u 15.00  
\$18.42



To the Honorable Samuel V Fulkerson, Judge  
of the Circuit Court of Lee County:

The answer of James T Loyd &  
James M. Young Adms of the estate of John Arey  
Deed, to the bill of complaint of Abraham  
R Surgenor filed in this Honorable court  
against them Defts and Others, after first reserving  
to themselves the benefit of all just and proper  
exceptions to said bill for its manifold errors, imper-  
fections, misrepresentations &c; for answer thereto  
say that it true as stated in Complt's bill that  
at the March term of the County Court of Lee  
County, <sup>1850</sup> they obtained a judgment at Law in said  
Court against Complt for the sum of \$85.00  
with interest from the 2nd day of August 1859  
also \$6.51 costs, It is also true as stated in Complt's  
bill that Respondent's intestate in his lifetime did  
purchase the horse mentioned in Complt's bill. It  
is also true that said Arey in his lifetime executed  
his note to Complt for the price of said horse  
but these Defts most positively deny the whole  
of the other allegations set forth in said bill. These  
Defts say that before they brought suit on the  
note mentioned in Complt's bill, and also before  
the death of said Arey, that Complt, sold  
assigned & delivered the note he held on said Arey  
and the note mentioned in his Complt's bill to one



Henry Fergusson of Lee County, who still  
is the holder & owner of said note: These  
Depts also deny that the estate of John Arny D.  
is insolvent as stated in Compt's bill - but say that  
said estate will be able to pay about 70 cts to the  
dollar on its indebtedness; And respondents  
think it would be a very unjust thing to  
pay the whole amount of Compt's <sup>debt</sup> bill, and leave  
other debts of equal dignity unpaid against the  
estate of said Arny - even if Compt had <sup>not</sup> at  
the time said suit was brought against him have  
parted with his interest in the note before  
mentioned which he sold to said Fergusson  
before the death of said Arny. Respondents  
having answered so much of Compt's bill  
as they deem material in this defence - pray  
hence to be dismissed with their costs by them in  
this behalf expended

D. R. Ham

Lee County Court

This day James T. Loyd personally appeared  
before me the undersigned and made oath that  
the allegations contained in the foregoing Answer  
are true so far as they depend on his own  
knowledge & so far as they depend on the informati-  
on derived from others he believes them to be true  
Given under my hand this 9th day of Oct 1860

J. B. Morgan, C. C.



86  
Sagd V Young Adms

ads } Answer

A. R. Surginer



Shoover & Surgenor

vs {

Shoover & Young Return &c

This cause came on again to be heard this day upon the papers formerly read, as well as upon the decree <sup>pronounced</sup> ~~rendered~~ in this cause at Oct term 1860 and was argued by counsel, And it appearing to the Court that more than one term of this Court has been holden since the rendition of the decree dissolving the Supplication heretofore awarded in this cause, and no motion having been submitted to reinstate the same, it is therefore adjudged ordered & decreed that Complaints be dismissed & that Plaint recover from Defendants their costs by them in their defence expended, And this Cause is stricken from the docket.



Surginer

ms { Final check

Slod & young admn

Entered Page 425

Enter this order

J. A. C.

Apr. 24. 1884

No 159



A R Surgenor

vs

} In chy

Jas T Lloyd & Jas M Young Adms & Coors

On motion of the Defts by their counsel leave  
is given them to file their answer and the same  
was filed - and on their motion the cause is  
placed on the motion docket - And on their  
further motion it is ordered adjudged and decreed  
that the Injunction heretofore granted The Compel  
in this cause is hereby dissolved



27 July 1906

ad 3 Decem

H. K. Gurginer

Q. A. 1860

Enter This

S. v. f.

Ad 15-g. Entered



I hereby waive all error which may exist  
in a judgment obtained against me by John  
M. McElroy for the benefit of the Administrators  
of the Estate of John Carey, at the March  
Term of the County Court of Lee County 1866  
Given under my hand this 26th day of  
June 1866.

A. R. Sullivan



<sup>12</sup>  
Virginia

At a court of quarter sessions continued and held for Lee  
county at the court House thereof on Wednesday the  
21<sup>st</sup> day of March 1860

John Wm. Ely for &c. Plaintiff

against

Abraham R. Surgenner-Def't.

For Debt,

The defendant not appearing, it is considered by the court  
that the judgment obtained against him in the clerk's office  
for \$85.00 the debt in the declaration mentioned with legal interest  
therein from the 21<sup>st</sup> day of August 1859 till payment and  
the cost be made final.

Teste

H. Morgan, Clk

c 251

a 250

by 50

2 50

6.57



A H Surinmer

add 3 copy Judgt

JH in Ely foot

Fee for copy 20



Know all Men by these Presents, That we *Abraham R Surgenor*  
*and Joseph Willis*  
are held and firmly bound unto *John W. M. Ely James I Lloyd & James M Young*  
in the sum of *one hundred and twenty two dollars* to be  
paid unto the said *John W. M. Ely Lloyd & Young* their  
executors, administrators or assigns, for the true payment whereof, well and truly to be made, we bind ourselves, our  
heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and  
dated this *20th* day of *June* 1866.

THE CONDITION of the above obligation is such, that whereas, the above bound *A R Surgenor*  
*of Lee County* an injunction ~~has~~ obtained from the *Judge of the Circuit Court*  
~~of Lee County~~ a decree pronounced by the *Circuit Court* for the County of Lee, on the  
day of *March* 1866, in a cause in which *John W. M. Ely* who sues for the  
*benefit of James I Lloyd - James M Young* *adms of the estate of John A. Ry*  
*Died* plaintiff and *A R Surgenor*  
defendant.

NOW IF THE SAID *A R Surgenor* <sup>injunction</sup>  
shall well and truly perform and satisfy the said ~~decree~~ <sup>judgment</sup>, in case the same shall be affirmed, or the ~~supersedeas~~ <sup>injunction</sup> be  
~~dismissed~~, and also pay all such damages, costs and fees which may be awarded against *him* then this obligation  
to be void, otherwise to remain in full force.

*I Test*  
*A. M. Hamilton*

*A R Surgenor* {SEAL.}  
*Joseph Willis* {SEAL.}  
*mark*



*vs* R Surgenor  
vs Injection Bond

Wm Ely and

Bond filed 20<sup>th</sup> June 1850  
Jm. Carnblenthe



The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY, GREETING :

WE COMMAND YOU TO SUMMON

*John W. M. Cley, James T. Loyd,  
and James M. Young.*

to appear before the Judge of the Circuit Court of Lee county, at the Court House, in the Clerk's office, at

*August*

Rules next, to answer *a bill in Chancery*

*exhibited in our said Court against them  
by Abraham W. Surgenor.*

And have then there this writ. Witness, RICHARD M. HAMBLÉN, Clerk of our said Court, at the Court House,  
this *26<sup>th</sup>* day of *June* 1860, in the *84<sup>th</sup>* year of the Commonwealth.

*R. M. Hamblen CR*



Abraham H. Surgenor  
vs { Spain City

Loyd & Young adm<sup>rs</sup>

August Rules 1860

July the 4<sup>th</sup> 1860

Executed on James  
M. Young by handing  
him a true copy and  
on James J. Lacy by  
Laying a copy with P. H.  
Allen he being a member  
of his family and a  
white person over the  
age of sixteen years old.  
Samuel S. Seal D<sup>s</sup>

July 16<sup>th</sup> 1860

Executed on  
John W. M. Cole  
D. Potter D<sup>s</sup>

Ad 161

to contain the demands from said plaintiff  
on the judgment in the well mentioned suit,  
the further order of the Court.  
Note W. M. Thompson etc